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GOOGLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Case No. 3:10-cv-03561-WHA

**DECLARATION OF DANIEL PURCELL
IN SUPPORT OF ORACLE AMERICA,
INC.'S ADMINISTRATIVE MOTION TO
FILE UNDER SEAL PORTIONS OF
ORACLE'S RESPONSE PRÉCIS**

Judge: Hon. William Alsup

Date Comp. Filed: October 27, 2010

Trial Date: October 31, 2011

1 I, Daniel Purcell, declare as follows:

2 1. I am a partner in the law firm of Kecker & Van Nest LLP, counsel to Google Inc.
3 (“Google”) in the present case. I submit this declaration in support of Oracle America, Inc.’s
4 (“Oracle”) Administrative Motion to File Under Seal Portions of Oracle’s Response Précis.
5 [Dkt. No. 427]. I have knowledge of the facts set forth herein, and if called to testify as a witness
6 thereto could do so competently under oath.

7 2. Portions of Oracle’s response précis quote the Lindholm email, which is the
8 subject of Google’s motion for relief from Magistrate Judge Ryu’s nondispositive pretrial order
9 in this case. All versions of the Lindholm email and drafts thereof are marked “PRIVILEGED
10 ATTORNEY-CLIENT COMMUNICATION/ATTORNEY WORK PRODUCT,” and are
11 designated as “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY” pursuant to the
12 Order Approving Stipulated Protective Order Subject to Stated Conditions [Dkt. No. 68]
13 governing this case. The Lindholm email contains privileged information about Google’s
14 investigation of and potential responses to Oracle’s infringement claims. But even leaving aside
15 whether the email is privileged, Google also considers the information contained in the email to
16 be highly confidential under the standard set forth in the protective order in this case. Under no
17 circumstances would Google publicly disclose during the normal course of business, or absent a
18 direct court order, any information about its litigation strategy or potential responses to claims
19 asserted against it. Public disclosure of this information would cause significant and undue harm
20 to Google’s business.

21 I declare under penalty of perjury that the foregoing is true and correct and that this
22 declaration was executed at San Francisco, California on September 19, 2011.

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24 By: /s/ Daniel Purcell
25 DANIEL PURCELL
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